

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION)	CASE NO. 1:17-MD-2804
OPIATE LITIGATION)	
)	JUDGE DAN A. POLSTER
)	
)	MAGISTRATE JUDGE DAVID A. RUIZ
)	
)	
)	
)	<u>MOTION TO EXTEND STAY</u>

Now comes the United States of America and hereby moves the Court to extend the stay of all discovery involving the United States of America in the above captioned case until such time as appropriations funding the federal government are made available.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the federal agencies, which have received third party subpoenas in this matter. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and certain employees of the federal agencies are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. On December 26, 2018, the Chief Judge of the District Court for the Northern District of Ohio issued General Order No. 2018-15, which holds in abeyance all civil matters involving the United States as a party during the Government shutdown for fourteen (14) days.

4. On January 9, 2019, the Chief Judge of the District Court for the Northern District of Ohio issued General Order No. 2019-1, which extends General Order No. 2018-15 until such time as appropriations funding the federal government are made available.

5. On December 27, 2018, this Court granted the United States of America's Motion to Stay Discovery Involving the United States for 14 days due to a lapse in Congressional Appropriation Funding the Federal Government.

6. That stay expires on January 9, 2018. Since funding has not been restored, the United States moves to extend the stay until such time as appropriations funding the federal government are made available.

7. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. Further, the Department anticipates that it can begin processing and issuing decisions on the outstanding discovery requests within 3-5 business days after funding is restored. The undersigned agrees to work with the parties and the Court to prioritize outstanding discovery issues and to address the most pressing issues first once funding is restored.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the United States hereby moves for the stay previously issued by this Court be extended until such time as appropriations funding the federal government are made available and Department of Justice attorneys and other federal agency employees are permitted to resume their usual civil litigation functions.

Respectfully submitted,

AVA ROTELL DUSTIN
Executive Assistant United States Attorney
Northern District of Ohio
Acting Under Authority Conferred by
28 U.S.C. § 51

By: /s/ James R. Bennett II
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CERTIFICATE OF SERVICE

I certify that, on January 9, 2019, I filed a copy of the foregoing electronically. The Court's electronic filing system will send notice of this filing to all parties. Parties may access this filing through the Court's system.

/s/ James R. Bennett II
JAMES R. BENNETT II
Assistant U.S. Attorney